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July 16, 2014

VIA ELECTRONIC AND CERTIFIED MAIL

Mr. Jeff S. Jordan
Assistant General Counsel
Federal Election Commission
Attn: Frankie Hampton, Paralegal
999 E Street, N.W.
Washington, DC 20463

Re: MUR 6830—Response of Tom MacArthur for Congress, Inc. (Ron Gravino, Treasurer)

Dear Mr. Jordan:

This letter responds to a recent complaint filed with the Commission, which contends that Tom MacArthur for Congress, Inc. ("the Committee") received "unlawful and unreported in-kind support and assistance" from the Burlington County Republican Party ("the Party").¹ The complaint specifically asserts that the Committee used the Party's "telephones for phone banking" and the Party's "office as its campaign headquarters."² These claims are unfounded.

I. The Committee Did Not Use the Party's Telephones for Phone Banking

The complaint pins its hope on a factual error, declaring that the Committee used Party "telephones for phone banking on behalf of Mr. MacArthur's candidacy" and that the Committee's public disclosure reports failed to show any payments for telephone services.³ A less hasty review of the Committee's reports, however, would have promptly revealed that the Committee paid a telecommunications vendor directly to establish its own independent phone lines at the Burlington County location.⁴ The Committee utilized its own phone lines exclusively to conduct phone banking in support of Mr. MacArthur's candidacy.⁵ The Committee therefore did not receive an in-kind contribution from the Party, as the complaint states, since the Committee did not use the Party's telephones for phone banking.

¹ Matter Under Review 6830 Complaint at 1.

² Matter Under Review 6830 Complaint at 1.

³ Matter Under Review 6830 Complaint at 1-2.

⁴ MacArthur for Congress, Inc. Fed. Election Comm'n Pre-Primary Election Report at 67 (showing payments of \$8,364 and \$514 to "Fitzsimmons Communications" for "Telecommunications"). See also Fitzsimmons Communications Invoice (Apr. 3, 2014) (showing charges for establishing phones at Committee headquarters and at the Party offices in Burlington County), attached hereto as an Exhibit.

⁵ Aff. of Harrison Neely at ¶ 9.

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II. The Committee Did Not Use the Party's Office as Its Campaign Headquarters

The complaint, again, makes a factually incorrect statement by alleging that the Committee used the Party's "office as its campaign headquarters."⁶ The Committee's campaign headquarters is actually located in Ocean County at 340 U.S. Route 9 in Bayville, New Jersey.⁷ The Party's office is not and has never been the Committee's campaign headquarters.⁸

The Party's office is, in fact, a facility maintained by the Party to accomplish its own organizational purposes. The office was procured long before Mr. MacArthur's candidacy.⁹ Permanent outdoor signage clearly marks the building as the "Burlington County Republican Headquarters."¹⁰ The office supports Party candidates in the area.¹¹ And two Party employees run the office.¹² Notably, the Committee has maintained only a limited presence in the Party's office. A Committee staff member began working at that office only on March 24, 2014.¹³ The Committee did not have any other staff members working at that office until mid-April 2014.¹⁴ Whenever the Committee's staff works at that office, they use only personal laptops to draft campaign-related communications and documents, employ only Committee phone lines to conduct phone banking for the campaign, and generally draw from Committee-purchased office supplies to perform campaign work.¹⁵

The Committee did not receive a "contribution" from the Party as a result of this arrangement for at least two reasons.

First, the Committee's mere presence in the Party's office is not a cognizable benefit, such that it could be characterized as a "contribution." Commission rules specify that the Party's expenditures for rent and other overhead expenses "need not be attributed to individual candidates, unless these expenditures are made on behalf of a clearly identified candidate and the expenditures can be directly attributed to that candidate."¹⁶ The Commission has, in applying this regulation, allowed a candidate to utilize party committee facilities for ongoing events, staff

⁶ Matter Under Review 6830 Complaint at 1.

⁷ Aff. of Harrison Neely at ¶ 5.

⁸ Aff. of Harrison Neely at ¶ 6.

⁹ See Google Maps Street View Image of Burlington County Republican Headquarters (Sept. 2013), available at <http://bit.ly/1mTazkp>. Mr. MacArthur did not declare his candidacy until mid-February of this year. See Thomas MacArthur Fed. Election Comm'n Form 2 (filed Feb. 11, 2014).

¹⁰ See Google Maps Street View Image of Burlington County Republican Headquarters (Sept. 2013), available at <http://bit.ly/1mTazkp>.

¹¹ See Burlington County Republican Committee Website (discussing state and local level candidates), available at <http://burlcogop.org/>.

¹² Aff. of Harrison Neely at ¶ 7.

¹³ Aff. of Harrison Neely at ¶¶ 3-4.

¹⁴ Aff. of Harrison Neely at ¶ 4.

¹⁵ Aff. of Harrison Neely at ¶¶ 8-10.

¹⁶ 11 C.F.R. § 106.1(c).

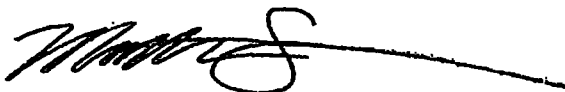
work, and phone banking without receiving a "contribution," where the space was maintained by the party and used to assist other candidates.¹⁷ Here, the Party incurred its obligation to pay rent, retained two employees to run the office space, and used the office space to support area candidates, all prior and without regard to Mr. MacArthur's candidacy. The Party's expenditures for its office space were not made on Mr. MacArthur's behalf, nor can they be directly attributed to him, given that they would have existed even without his candidacy.¹⁸ The Party's expenditures cannot, then, be considered an in-kind "contribution" to the Committee.

Second, even if the Committee could somehow be said to benefit measurably from access to the Party's office, it did not receive a "contribution" from the Party because it paid, out of an abundance of caution, for using the Party's space within a commercially reasonable period of time. Commission rules stipulate that an outstanding payment is not a "contribution" when a benefiting committee makes payment within a commercially reasonable period of time.¹⁹ As mentioned, the Committee did not have any staffers working inside the Party's office until late March and mid-April. The Committee then made a timely payment to the Party on June 20, 2014 related to use of the office space.²⁰ Although the Committee did not believe this payment was necessary to avoid receiving an in-kind contribution, it decided to make the payment anyway to moot any possible controversy over its staffers' presence in the Party's office. Because the Committee made this payment within a commercially reasonable period, the Committee did not receive a "contribution" from the Party.

III. Conclusion

The complaint's assertions are false. The Committee arranged for its own telecommunications equipment—and did not use the Party's equipment—to conduct phone banks. The Committee also never used the Party's office as its campaign headquarters, since it maintains its own headquarters in another county. There is no basis here for concluding, as the complaint does, that the Committee received "unlawful and unreported in-kind support and assistance" from the Party. The Commission should therefore find no reason to believe a violation occurred and should dismiss this Matter.

Respectfully Submitted,



Matthew T. Sanderson
Caplin & Drysdale, Chartered

¹⁷ See, e.g., Matter Under Review 6049, First General Counsel's Report at 11-12 (Commission accepted staff recommendation to find no reason to believe).

¹⁸ Compare Matter Under Review 5564 (finding reason to believe a violation occurred where a state party established new regional offices solely to promote a single federal candidate).

¹⁹ See 11 C.F.R. § 116.3(a).

²⁰ Attached hereto as an Exhibit.